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TRACEY CORDES, CLERK

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

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AO 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

<b>United States District Court</b>		District <b>WESTERN DISTRICT OF MICHIGAN</b>
Name <b>DAVID YWAIN YOUNG</b>	Prisoner No. <b>245034</b>	Case No. _____
Place of Confinement <b>CALHOUN COUNTY JAIL</b>		<b>1:11-cv-4</b> Paul L. Maloney - Chief U.S. District Judge Joseph G. Scoville - U.S. Magistrate Judge
Name of Petitioner (include name under which convicted) <b>DAVID YWAIN YOUNG</b>		Name of Respondent (authorized person having custody of petitioner) <b>v. ALLEN L. BYAM</b> <b>CALHOUN COUNTY SHERIFF</b>
The Attorney General of the State of: <b>MICHIGAN</b>		

## PETITION

- Name and location of court which entered the judgment of conviction under attack  
37<sup>th</sup> JUDICIAL CIRCUIT, CALHOUN COUNTY
- Date of judgment of conviction AUGUST, 23, 2010
- Length of sentence 7 MONTHS
- Nature of offense involved (all counts) COUNT 1: POLICE OFFICER-ASSAULT/RESISTING/  
OBSTRUCTION  
COUNT 2: POLICE OFFICER-ASSAULT/RESISTING/OBSTRUCTION
- What was your plea? (Check one)
 

(a) Not guilty	<input checked="" type="checkbox"/>	G
(b) Guilty	<input type="checkbox"/>	G
(c) Nolo contendere	<input type="checkbox"/>	G

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

\_\_\_\_\_

\_\_\_\_\_
- If you pleaded not guilty, what kind of trial did you have? (Check one)
 

(a) Jury	<input checked="" type="checkbox"/>	G
(b) Judge only	<input type="checkbox"/>	G
- Did you testify at the trial?  
Yes ☐ No ☒ G
- Did you appeal from the judgment of conviction?  
Yes ☒ No ☐ G

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9. If you did appeal, answer the following:

- (a) Name of court MICHIGAN COURT OF APPEALS
- (b) Result PENDING
- (c) Date of result and citation, if known \_\_\_\_\_
- (d) Grounds raised PENDING REVIEW

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

- (1) Name of court N/A
- (2) Result \_\_\_\_\_
- (3) Date of result and citation, if known \_\_\_\_\_
- (4) Grounds raised \_\_\_\_\_

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

- (1) Name of court N/A
- (2) Result \_\_\_\_\_
- (3) Date of result and citation, if known \_\_\_\_\_
- (4) Grounds raised \_\_\_\_\_

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☒ G No ☐ G

11. If your answer to 10 was "yes," give the following information:

- (a) (1) Name of court 3<sup>RD</sup> JUDICIAL CIRCUIT CALHOUN COUNTY
- (2) Nature of proceeding WRIT OF HABEAS CORPUS
- (3) Grounds raised DENIED PROBABLE CAUSE HEARING AND PROBABLE CAUSE DETERMINATION 48 HOURS INCIDENT TO ARREST

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2) INEFFECTIVE ASSISTANCE OF COUNSEL3) UNCONSTITUTIONAL IMPANELING OF PETITE JURY4) ABUSE OF DISCRETION

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes G No ✓G

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(b) As to any second petition, application or motion give the same information:

(1) Name of court MICHIGAN COURT OF APPEALS(2) Name of proceeding WRIT OF MANDAMUS(3) Grounds raised REQUEST MADE TO COURT OF APPEALS TO COMPEL THE  
37<sup>TH</sup> JUDICIAL COURT TO ISSUE WRIT OF HABEAS CORPUS FILED10/18/2010

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes G No ✓G

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes G No ✓G(2) Second petition, etc. Yes G No G(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:COUNTY JAIL DENIES INMATES ACCESS TO THE COURTS MAKING  
IT IMPOSSIBLE TO LITIGATE CLAIMS12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

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For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: DENIED PROBABLE CAUSE HEARING AND PROBABLE CAUSE DETERMINATION WITHIN 48 HRS OF ARREST

Supporting FACTS (state *briefly* without citing cases or law): PETITIONER WAS ARRESTED ON OR ABOUT 2/4/10 ARRAIGNED 2/8/10 PRELIMINARY HEARING HELD 4/27/10

B. Ground two: DENIED EFFECTIVE ASSISTANCE OF COUNSEL

Supporting FACTS (state *briefly* without citing cases or law): COURT APPOINTED ATTORNEY DID NOT APPEAR SEVERAL TIMES, APPEARED IN PRELIMINARY, PRE-TRIAL AND TRIAL WITHOUT ONCE CONSULTING WITH CLIENT

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- C. Ground three: PETITE JURY DEFUSED WITH BIAS, UNCONSTITUTIONALLY IMPANELED UNCONSTITUTIONAL COMPOSITION SYSTEMATICALLY EXCLUDING AFRICAN AMERICANS

Supporting FACTS (state *briefly* without citing cases or law): AFRICAN AMERICANS WERE REMOVED FROM JURY POOL, PETITE JURY WAS BIAS AND DID NOT GIVE PETITIONER RIGHT TO BE JUDGED BY HIS OWN PEERS BY A FAIR CROSS SECTION OF THE COMMUNITY

- D. Ground four: ABUSE OF DISCRETION

Supporting FACTS (state *briefly* without citing cases or law): TRIAL JUDGE WAS MADE AWARE BY DEFENDANT AND SUBSTITUTE ATTORNEY OF CONFLICTING PROBLEMS BETWEEN CLIENT AND ATTORNEY. SUBSEQUENTLY TRIAL ATTORNEY FILED MOTION TO WITHDRAW ONE DAY BEFORE TRIAL, MOTION WAS DENIED. DEFENDANT REQUESTED ADJOURNMENT FOR OPPORTUNITY TO PROCURE HIS OWN COUNSEL AND WAS DENIED, FORCED INTO TRIAL WITHOUT ADDRESSING AND RESOLVING CONFLICTS BETWEEN COURT APPOINTED ATTORNEY AND HIS CLIENT

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them: \_\_\_\_\_

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?  
Yes G No ✓G

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing JAMES SAUBER  
436 CAPITAL S.W. BATTLE CREEK MI. (269) 965-8000

(b) At arraignment and plea NO ATTORNEY, DENIED RIGHT



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- (c) At trial JAMES SAUBER  
436 CAPITAL S.W. BATTLE CREEK MI. (269) 965-8000
- (d) At sentencing JAMES SAUBER  
436 CAPITAL S.W. BATTLE CREEK, MI (269) 965-8000
- (e) On appeal VALERIE NEWMAN
- (f) In any post-conviction proceeding NONE
- (g) On appeal from any adverse ruling in a post-conviction proceeding NONE

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

Yes ☒ G No ☐ G

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ G No ☒ G

(a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_

(b) Give date and length of the above sentence: \_\_\_\_\_

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ G No ☒ G

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
 Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

12/31/10  
 Date

David Young  
 Signature of Petitioner